### OPERATING PRINCIPLES DOCUMENT PUBLIC SAFETY COMMUNICATIONS ADVISORY COMMISSION

(PSCC; Commission)

### Prepared by PSIC for the PSCC Governance Working Group DRAFT dated OCTOBER 1, 2009

#### **Disclaimer**

This document is an advisory document and does not create rights, privileges, duties or responsibilities that do not already exist through another authoritative source. Nothing in this document should be interpreted to conflict with Federal or State laws or rules. If a conflict is discovered, the appropriate laws, rules or contracts control.

#### **Commission Authority**

The authority of the Commission is established in Arizona Revised Statute (ARS) Section 41-3541 as follows: "41-3541. Arizona public safety communications advisory commission; membership; appointment; terms; meetings

A. An Arizona public safety communications advisory commission is established in the agency consisting of the director or the director's designee and fourteen other advisory members who are appointed by the governor pursuant to section 38 Section 211."

Management of the Commission was placed in GITA as stated in ARS Section 41-3501 (Definitions): "In this chapter...:

- 1. 'Agency' means the government information technology agency....
- 4. 'Director' means the director of the agency."

Governor appointments are described in ARS 38-211 (Appendix A).

#### **Commission Purpose and Functions**

ARS Section 41-3542 states the Commission's purpose and functions as follows:

41-3542. Advisory commission; powers and duties; report

A. The Arizona public safety communications advisory commission shall make recommendations to the agency regarding the development and maintenance of work plans to outline areas of work to be performed and appropriate schedules for at least the following:

- 1. The development of a standard based system that provides interoperability of public safety agencies' communications statewide.
- 2. The promotion of the development and use of standard based systems.
- 3. The identification of priorities and essential tasks determined by the advisory commission.
- 4. The development of a timeline for project activities.
- 5. Completion of a survey of existing and planned efforts statewide and benchmark against similar efforts nationally.
- 6. Providing support for the state interoperability executive committee.
- 7. Establishing committees and work groups as necessary."

Subsection 6 of Section A of 41-3542 states that PSCC shall provide support for the SIEC. The SIEC is described in Appendix B.

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#### **Interoperability Strategic Initiatives**

The Strategic Initiatives are mapped to the statutory purpose and functions in an Appendix to the Statewide Communications Interoperability Plan (SCIP). The key Strategic Initiatives and related Objectives are as set forth in the SCIP, updated annually and posted at <a href="http://www.azgita.gov/psic/initiatives/default.htm">http://www.azgita.gov/psic/initiatives/default.htm</a>.

The following items are outlined for each of the Strategic Initiatives within the SCIP:

- Initiative Description
- Priority:
- Term/Timeframe
- Lead/Owner
- Primary Participants
- Gap Statement
- Action Plan
- Objectives
- Performance Measures
- Critical Success Factors/ Risks
- Funding.

The purpose and authorities of the Commission are impacted by the budget allocated to the above activities. For a summary of the budget, please see the most recent Joint Legislative Budget Committee (JLBC) report posted on the PSIC website at <a href="http://www.azgita.gov/psic/library/reports/default.htm">http://www.azgita.gov/psic/library/reports/default.htm</a>.

#### **Commission Membership**

The membership of the Commission is as set forth in ARS 41-3541 (Arizona public safety communications advisory commission; membership; appointment; terms; meetings):

- A. An Arizona public safety communications advisory commission is established in the agency consisting of the director or the director's designee and fourteen other advisory members who are appointed by the governor pursuant to section 38 Section 211.
- B. The governor shall make the appointments so that the existing five emergency response regions in this state are as equally represented on the advisory commission as possible.
- C. Members shall serve three year terms.

#### **Commission Appointments**

Section 41-3541 states that "fourteen other advisory members who are appointed by the governor pursuant to section 38 Section 211."

ARS 38-211 states how nominations are made by the governor and that consent of the legislature is required. (See Appendix A.)

#### **Commission Meetings and Quorums**

ARS 41-3541, subsection D provides for frequent Commission meetings as follows:

D. The Arizona public safety communications advisory commission shall meet quarterly or on call of the director who shall serve as chairman."

A meeting is defined as: 38-431. Definitions ... 4. "Meeting" means the gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such action....

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#### 38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting....

Meeting Notices are handled in accordance with 38-431.02. See Appendix A for the full text of this provision.

A quorum is generally held to mean a majority of the entire membership of the body. If there are vacancies that fact is usually not considered. Meeting notices are handled in accordance with 38-431.02 (Appendix A). Calls to the public are handled in accordance with 38-431.01.

#### **Executive Session**

The PSCC upon a majority vote of a quorum of the members, may hold an Executive Session on any listed agenda items pursuant to ARS Section 38-431.03 (A) (2), (3) and (4). If authorized by a majority vote, the executive session will be held immediately after the vote and will not be open to the public.

#### **Committees and Workgroups**

In accordance with ARS Section 41-3542, subsection A-7, the PSCC has the authority to establish committees and workgroups from time to time to enable informal collaboration on matters under consideration by the PSCC.

These workgroups can be standing groups or ad-hoc groups formed and disbanded as needed.

The workgroup meetings shall NOT be public meetings.

Active workgroups shall report on their activities and provide related recommendations at PSCC (open, public) meetings. The recommendations of these workgroups will be advisory only.

Any interested member of the public safety community that PSCC serves shall be eligible to serve with appropriate PSCC workgroups. Workgroups may have additional criteria for participation established by the PSCC to enable efficient accomplishment of the workgroup's purposes.

#### **Expenses**

Commissioners can be reimbursed for expenses in accordance with subsection E of 41-3541:

'E. Commission members are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.' (see 38-621) (Appendix A).

#### **Conflict of Interest**

Commissioners must disclose any conflicts of interest in accordance with 38-503.

#### 38-503. Conflict of interest; exemptions; employment prohibition

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision

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#### **Agency Actions**

Enumerated duties of Public Safety Interoperable Communications (PSIC) Office of GITA (PSIC or GITA/PSIC or the Agency) are set forth in subsection B of ARS 41-3542 (Advisory commission; powers and duties; report):

- B. The agency may:
- 1. Employ personnel as required with available monies.
- 2. Enter into contracts to assess, design, construct and use public safety communications systems.
- 3. Accept grants, fees and other monies for use by the agency and the advisory commission.
- 4. Enter into agreements to carry out the purposes of this article.
- 5. Request cooperation from any state agency for the purposes of this article.

#### Consultation

GITA is required to consult with DPS as follows:

41-3542. Advisory commission; powers and duties; report

C. The department of public safety shall consult with the director of the government information technology agency or the director's designee on an ongoing basis."

#### Reporting

GITA and PSCC are required to submit reports as follows:

41-3542. Advisory commission; powers and duties; report

- C. ... The Director of the Government Information Technology Agency shall submit a quarterly report to the joint legislative budget committee for review regarding expenditures and progress of the commission, including a review of staff operations and preparation of requests for proposals for system detail and concept work.
- D. The commission shall annually submit a report of its activities and recommendations to the governor, the speaker of the house of representatives and the president of the senate on or before December 1 and shall provide a copy of the report to the secretary of state and the director of the Arizona state library, archives and public records."

#### **DEFINED TERMS**

Agency Government Information Technology Agency, State of Arizona

ARS Arizona Revised Statute

Commission Public Safety Communications Advisory Commission

Director GITA Director

DPS Department of Public Safety, State of Arizona

GITA Government Information Technology Agency, State of Arizona

JLBC Joint Legislative Budget Committee

PSCC Public Safety Communications Advisory Commission
PSIC Public Safety Interoperable Communications Office
SCIP Statewide Communications Interoperability Plan
SIEC Statewide Interoperable Executive Committee

#### **Appendix A - Other Statutory Provisions**

### Operating Principles Document Public Safety Communications Advisory Commission (PSCC)

Commissioner Appointments – 38-211 Meetings Notices – 38-431.02 Call to Public – 38-431.01 Executive Sessions – 38-431.03

#### **Commissioner Appointments**

#### 38-211. Nominations by governor; consent of senate; appointment

A. When it is provided by law that a state officer shall be appointed pursuant to this section, the governor shall nominate and with the consent of the senate appoint such officer as prescribed in this section. B. If the term of any state office which is appointive pursuant to this section expires, begins or becomes vacant during a regular legislative session, the governor shall during such session nominate a person who meets the requirements of law for such office and shall promptly transmit the nomination to the president of the senate. If the incumbent is capable of continuing to serve until his successor has qualified, a nominee to that position shall not assume and discharge the duties of the office, pending senate confirmation. If the incumbent is unable to continue to discharge the duties of office, the nominee shall assume and discharge the duties of the office pending senate confirmation. If the senate consents to the nomination, the governor shall then appoint the nominee to serve for the term or, in the case of a vacancy, for the unexpired term in which the vacancy occurred. If the senate rejects the nomination the nominee shall not be appointed and the governor shall promptly nominate another person who meets the requirements for such office. If the senate takes no formal action on the nomination during such legislative session, or if a nomination other than one that is required to be sent to the senate during the first week of the legislative session is not received during the session, the governor shall after the close of such legislative session appoint the nominee to serve, and the nominee shall discharge the duties of office, subject to confirmation during the next legislative session.

- C. If the term of any state office which is appointive pursuant to this section expires, begins or becomes vacant during a time in which the legislature is not in regular session, the governor shall nominate a person who meets the requirements of law for such office and shall transmit the nomination to the president of the senate during the first week of the next regular session. The nominee shall assume and discharge the duties of the office until rejection of the nomination or inaction of the senate.
- D. Every officer who is subject to confirmation as provided in this section and whose term is not fixed by law shall hold office at the pleasure of the appointing power.
- E. In no event shall a nominee serve longer than one year after nomination without senate consent.
- F. Nominations made by the governor shall be in writing, designating the residence of the nominee and the office for which nominated.
- G. When the senate consents to a nomination, its secretary shall deliver a copy of the resolution of consent, certified by the president of the senate, to the secretary of state, who shall notify the governor. When the senate rejects a nomination, its secretary shall inform the governor promptly.

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#### **Meeting Notices**

#### 38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:

- 1. The public bodies of the state shall file a statement with the secretary of state stating where all public notices of their meetings will be posted and shall give such additional public notice as is reasonable and practicable as to all meetings.
- 2. The public bodies of the counties, school districts and other special districts shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give such additional public notice as is reasonable and practicable as to all meetings.
- 3. The public bodies of the cities and towns shall file a statement with the city clerk or mayor's office stating where all public notices of their meetings will be posted and shall give such additional public notice as is reasonable and practicable as to all meetings.
- 4. The public bodies of the cities and towns that have an internet web site shall post all public notices of their meetings on their internet web site and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a city or town web site or that temporarily or permanently prevents the usage of all or part of the web site does not preclude the holding of the meeting for which the notice was posted if all other public notice requirements required by this section are complied with.
- B. If an executive session will be held, the notice shall be given to the members of the public body, and to the general public, stating the specific provision of law authorizing the executive session.
- C. Except as provided in subsections D and E, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public.
- D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I.
- E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A, and if, prior to recessing, notice is publicly given as to the time and place of the resumption of the meeting or the method by which notice shall be publicly given.
- F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during such calendar period, and at a regular place and time, may post public notice of such meetings at the beginning of such period. Such notice shall specify the period for which notice is applicable.
- G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four hours prior to the meeting, except in the case of an actual emergency under subsection D.
- H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

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- I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. Such agenda shall provide more than just a recital of the statutory provisions authorizing the executive session, but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege.
- J. Notwithstanding subsections H and I, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, where the matter was not listed on the agenda provided that a statement setting forth the reasons necessitating such discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately prior to the executive session.
- K. Notwithstanding subsection H, the chief administrator, presiding officer or a member of a public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, provided that:
- 1. The summary is listed on the agenda.
- 2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless the specific matter is properly noticed for legal action.

#### Call to Public

#### 38-431.01. Meetings shall be open to the public

- B. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, such minutes or recording shall include, but not be limited to:
- 1. The date, time and place of the meeting.
- 2. The members of the public body recorded as either present or absent.
- 3. A general description of the matters considered.
- 4. An accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material....
- D. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article....
- F. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting....
- H. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action.

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#### **Executive Sessions**

#### 38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

- 1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.
- 2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.
- 3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
- 4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.
- 5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.
- 6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.
- 7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.
- B. Minutes of and discussions made at executive sessions shall be kept confidential except from:
- 1. Members of the public body which met in executive session.
- 2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.
- 3. The auditor general on a request made in connection with an audit authorized as provided by law.
- 4. A county attorney or the attorney general when investigating alleged violations of this article.
- C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.
- D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.
- E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.

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F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

#### Appendix B - SIEC

### Operating Principles Document Public Safety Communications Advisory Commission (PSCC)

#### Committee

The SIEC is a standing committee of the Public Safety Communications Advisory Commission (PSCC).

The SIEC is an advisory committee that advises the PSCC on technical and operational communication interoperability matters.

The PSCC takes the recommendations of the SIEC into consideration, but is under no obligation to follow such recommendations.

#### **Members**

The SIEC shall have five members.

PSCC Commissioners, by vote of a quorum of its members, shall appoint two co-chairs / members of the SIEC who shall serve until they no longer serve as Commissioners, resign or are replaced by a vote of the quorum of the PSCC.

The SIEC co-chairs are responsible for unanimously selecting the other three members of the SIEC. If there is a vacant co-chair position, the remaining co-chair shall not select any new members of SIEC until the two co-chairs are seated.

#### Meetings

SIEC shall meet quarterly or more often as determined by the committee.

All SIEC meetings shall be managed by the PSIC office and shall be conducted in an open public meeting format.

#### Workproduct

All assignments worked on by the SIEC shall be performed at the request of or with the consent of the PSCC.

An SIEC co-chair or other designated member shall make presentations regularly at PSCC meetings to enable the PSCC to receive continual updates and to facilitate PSCC to provide detailed guidance to the work of the Committee.

Any work products produced by the SIEC and submitted to the PSCC shall be reviewed in a PSCC meeting. [Note: All PSCC are open public meetings.]

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#### **SIEC Workgroups**

Workgroups shall be formed from time to time to enable informal collaboration on matters under consideration by the SIEC.

These workgroups can be standing groups or ad-hoc groups formed and disbanded as needed.

The workgroup meetings shall NOT be public meetings.

Active workgroups shall report on their activities and provide related recommendations at SIEC (open, public) meetings.

Any interested member of the public safety community that PSCC serves shall be eligible to serve on appropriate SIEC workgroups. Workgroups may have additional criteria for participation established by SIEC to enable efficient accomplishment of the workgroup's purposes.